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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/189,615	11/09/1998	NIELS GEBAUER	33012/246	5678

7590

12/05/2005

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EXAMINER

ROBINSON, GRETA LEE

ART UNIT

PAPER NUMBER

2168

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/189,615

Applicant(s)

GEBAUER, NIELS

Examiner

Greta L. Robinson

Art Unit

2168

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 22, 2005 has been entered.

2. Claims 1-22 are pending in the present application. Claims 1, 6, 11, 16 and 22 have been amended.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cool ICE User's Guide release 1.0 in view of Madan et al. A Distributed Real-Time Database For Heterogeneous Computer Control Systems.

Regarding claim 1, COOL ICE teaches a data processing environment having a user terminal which generates a service request coupled to a publicly accessible digital communications network and having a data base management system which received

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and responds to said service request when available by execution of an ordered sequence of command language script, the improvement comprising: a server coupled to said terminal via said publicly accessible digital communications network and coupled to said data base management system wherein said server includes an administration management system [note: figure 1-1 Cool ICE environment; page 1-4 designing web services; figures 1-2 and 1-4; page 1-8 through 110, page 1-15].

Although Cool ICE teaches the invention substantially as cited above, it does not teach "transferring an unavailability message to said user terminal in response to said service request when said data base management system is unavailable to receive and respond to said service request which signifies ... request will not be honored ..." Madan et al. teaches this feature. Madan et al. teaches that when the kernel receives a request for access to a particular data it checks to see if it is available, it frames a message and sends a request, after performing the transaction it returns the status of the transaction to the client application note: abstract and introduction page 435; note objectives, section B and C page 436; section D message framework page 438; and figure 5 note message status parameter]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Madan et al with Cool ICE User's Guide because Madan et al is concerned with extending the construct of proprietary database systems into open systems that can handle diverse tasks. Madan et al teaches all communication is through a set of predefined messages and that a status message is an important message that can be implemented with a high level language for communication [page 438].

5. Regarding claims 2-5: a repository for storing said unavailability message [note Madan et al., figure 5; also note design of system tables page 436].

6. The limitations of claims 6-22 have been addressed above in claims 1-5, except for the following: transferring an unavailability message to said user terminal if said determining step determines data base management system is not currently capable of honoring said service request [note: Madan page 435 through 436 the Kernel checks the nodes to see which is available and transfer appropriate transaction].

7. Applicant's arguments filed September 22, 2005 have been fully considered but they are not persuasive.

In the response Applicant argued the Examiner did not make a prima facie case of obviousness. Applicant states Madan et al. is incompatible with COOL ICE and COOL ICE does not teach kernels or a plurality of nodes for transferring messages as in Madan et al. Madan teaches six different messages defined in the system; but does not teach "unavailability message". COOL ICE teaches the transfer of messages [note: Figure 1-2 and 1-7; page 13, 1-4, 1-23 and 2-8]; they do not explicitly disclose that the

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message is a status message letting the system know availability or unavailability, however Madan et al. discloses that when the kernel receives a request for access to a particular data it checks to see if it is available, it frames a message and sends a request, after performing the transaction it returns the status of the transaction to the client application note: abstract and introduction page 435; note objectives, section B and C page 436; section D message framework page 438; and figure 5 note message status parameter]. Madan et al. teaches integrating distributed systems through an interprocess control layer and design components for implementing such features [page 435-436]. They provides for determining available data and data that is not available through high level language implementation [se page 437-438]. Madan et al. is concerned with enhancing communication in a distributed network and teaches design implementation for implementing such features, this would enhance the distributed communication architecture of COOL ICE.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

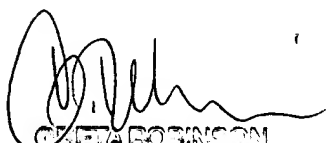
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on (571)272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Greta Robinson  
Primary Examiner  
November 30, 2005



GRETAROBINSON  
PRIMARY EXAMINER